

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENNETH WRIGHT, on his own behalf and
on behalf of other similarly situated persons,

Case No. 2:14-cv-00421-BJR

Plaintiff,

V.

LYFT, INC., a Delaware corporation,

Defendant.

DECLARATION OF DONALD W.
HEYRICH IN SUPPORT OF PLAINTIFF'S
MOTION FOR APPROVAL OF SERVICE
AWARD AND ATTORNEYS' FEES AND
COSTS

I, Donald W. Heyrich, declare as follows:

1. I am an attorney of record for Plaintiff Kenneth Wright and the certified class. I have personal knowledge of the matters set forth herein and if called to do so I could and would testify competently under oath. This declaration supplements the information set forth in the Declaration of Donald W. Heyrich in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement (Dkt. #91), and is submitted in support of Plaintiff's Motion for Approval of Service Award and Attorneys' Fees and Costs.

2. Class Counsel represented Plaintiff and the Class on a contingency-fee basis. In taking this case, my firm, along with Stutheit Kalin LLC, risked that we would never obtain any payment for the extensive time we performed on the case, as well as extensive expert costs, a potentially expensive trial, and lost opportunity costs due to the time we needed to devote to

the case. We also faced the risk of losing a jury trial and the risk that any recovery could be delayed for years by an appeal. For small law firms such as ours, these risks are significant.

3. The following chart identifies the attorneys who worked on behalf of class counsel in this case, assigns a reasonable hourly rate for each attorney, and sets forth the number of hours worked by each individual, the amount of fees for each individual, and the total fees for class counsel as a whole.

HKM Employment Attorneys LLP			
Attorney	Hours	Rate	Amount
Donald Heyrich	547.3	\$685	\$374,900.50
Jason Ritterreiser	19.6	\$505	\$9,898.00
Rachel Emens	5.9	\$425	\$2,507.50
Mara Brandes	11.9	\$295	\$3,510.50
TOTAL			\$390,816.50

Stutheit Kalin LLC			
Attorney	Hours	Rate	Amount
Peter Stutheit	17.6	\$600	\$10,560.00
Kyann Kalin	59.8	\$600	\$35,880.00
		TOTAL	\$46,440.00

Masters Law Group			
Attorney	Hours	Rate	Amount
Ken Masters	78.3	\$575	\$45,022.50
Shelby R. Frost Lemmel	11.7	\$495	\$5,791.50
Tamra J. Cole	23.7	\$295	\$6,991.50
TOTAL:			\$57,805.50

Sound Justice Law Group			
Attorney	Hours	Rate	Amount
Albert H. Kirby	41.3	\$685	\$28,290.50
		TOTAL	\$28,290.50

LOADSTAR TOTAL \$512,792.50

1 4. The applied rates are based on a variety of factors, including among others, the
 2 experience, skill and sophistication required for the types of legal services performed, and the
 3 experience, reputation and ability of the attorneys. In addition, the applied rates take into account the
 4 reasonable hourly rates applied in similar cases in the Western District of Washington. In this context,
 5 more than 8 years ago, rates for attorneys in the Western District of Washington in class action
 6 litigation were approved in a range of \$415 to \$760 per hour. *See Pelletz v. Weyerhaeuser Co.*, 592 F.
 7 Supp. 2d 1322, 1326 (W.D. Wash. 2009) (finding the prevailing rate for similarly situated attorneys in
 8 Seattle working on consumer protection class actions is \$415 to \$760 per hour). More recently, in
 9 March 2017, another judge in this district in a TCPA case applied a rate of \$725 per hour to an
 10 attorney with similar experience as the undersigned, and applied rates overall ranging from \$425 to
 11 \$725. *Joseph v. TrueBlue, Inc.*, Case No. 3:14-cv-05963-BHS (W.D. Wash.).

12 5. Rates for HKM Employment Attorneys LLP. The lodestar calculation set forth above
 13 applies a rate of \$685 for my time on the case. I am the lead attorney from HKM in the instant
 14 litigation. My background and my significant litigation and class action experience is set forth
 15 in my prior declaration, at Dkt. #91. I was approved at a rate of \$685 in a TCPA and CEMA
 16 case brought in this Court. *Gragg v. Orange Cab Co.*, Case No. 2:12-cv-00576-RSL (W.D.
 17 Wash.). I also have been approved at this rate by the court in *McKiernan v. Act Fast Delivery of*
 18 *Washington*, No. 16-2-03389-0 SEA (King County Superior Court) and *Anderson v. Reed Hein &*
 19 *Associates, LLC*, Case No. 2:16-cv-00785-RSL (W.D. Wash.).

20 6. The lodestar calculation assigns a rate of \$505 for time worked by attorney
 21 Jason Rittereiser, a managing partner in HKM Employment Attorneys LLP's Seattle office. Mr.
 22 Rittereiser graduated from the University of Washington in 2006 and DePaul University
 23 College of Law in 2010. Prior to joining HKM, he worked as a Deputy Prosecuting Attorney
 24 for the King County Prosecuting Attorney's Office. He has been recognized by Washington
 25 Super Lawyers as a "Rising Star" (2017-2019) and was recognized as the Outstanding Young
 26 Lawyer of the Year by the King County Bar Association (2017). Since joining HKM, he has
 27

1 represented or currently represents plaintiffs in multiple class actions in addition to this one.
 2 These include *Carson v. AMD Kashi Inc., et al.*, King County Superior Court Case No. 17-2-
 3 29644-9 SEA; *Yi v. The Kroger Co.*, King County Superior Court Case No. 14-2-19935-0;
 4 *Stevenson et al. v. Pactera Technologies, Inc.*, King County Superior Court Case No. 16-2-
 5 3148-0; *Town et al. v. Cascade Hospitality, LLC*, King County Superior Court Case No. 14-2-
 6 28148-0; *Anderson et al. v. Reed Hein*, Case No. 2:16-cv-00785-RSL (W.D. Wash.); and
 7 *McKiernan et al. v. Act Fast*, King County Superior Court Case No. 16-2-03389-0.

8 7. The lodestar calculation assigns a rate of \$425 for time worked by attorney
 9 Rachel Emens. Ms. Emens was previously approved at a rate of \$400 by the court in
 10 *McKiernan v. Act Fast Delivery of Washington*, No. 16-2-03389-0 SEA (King County Superior
 11 Court) and *Anderson v. Reed Hein & Associates, LLC*, Case No. 2:16-cv-00785-RSL (W.D.
 12 Wash.). Ms. Emens is a senior associate at HKM Employment Attorneys LLP and will be
 13 recognized by Washington Super Lawyers as a “Rising Star” for 2019. During law school Ms.
 14 Emens served as an extern to United States District Court Judge Thomas S. Zilly. Prior to
 15 joining HKM, Ms. Emens had a combined eight years of experience as legal assistant, summer
 16 associate, and contract attorney at Winterbauer & Diamond PLLC, a boutique litigation firm.
 17 Ms. Emens has served as counsel in class actions, including *Stevenson et al. v. Pactera*
 18 *Technologies, Inc.*, No. 16-2-3148-0 (King County Superior Court); *Monaco v. D.A. Davidson*
 19 *Companies*, Case No. 5:16-cv-00332 SJO (DTB (C.D. Cal.)); *Carson v. AMD Kashi Inc. et al.*,
 20 No. 17-2-29644-9 SEA (King County Superior Court); and *Yi et. al v. The Kroger Co., et al.*,
 21 Case No. 14-2-19935-O-SEA (King County Superior Court).

22 8. The lodestar calculation assigns a rate of \$295 for time worked by attorney Mara
 23 Brandes. Ms. Brandes graduated from law school in 2008 and clerked for the Honorable
 24 Carolyn Kuhl in the Complex Division of the Los Angeles County Superior Court. She then
 25 worked as an associate for Ogletree, Deakins, Bash, Smoak & Stewart.

1 9. Rates for Stutheit Kalin LLC. The lodestar calculation assigns a rate of \$600 for
 2 time worked by attorneys Peter Stutheit and Kyann Kalin. Mr. Stutheit graduated from the
 3 University of Pennsylvania Law School in 2001 and has been a member of the Washington bar
 4 since 2002. Prior to forming his own firm in 2008, he worked for law firms in Seattle and
 5 Portland, including Perkins Coie LLP and Yarmuth Wilson. His partner, Kyann Kalin,
 6 graduated from the Boalt Hall at the University of California - Berkeley in 2000. Prior to
 7 joining Stutheit Kalin LLC in 2013, she worked at Perkins Coie LLP and Ongaro Burt P.C.
 8 (and successor firms) and worked on numerous class actions for publicly traded companies.
 9 Together, Mr. Stutheit and Ms. Kalin have represented plaintiffs in dozens of class action cases.

10 10. Rates for Masters Law Group. The Masters Law Group specializes in appellate
 11 litigation and represented plaintiffs in connection with the questions that were certified in this case to
 12 the Washington Supreme Court. Ken Masters has practiced law for 27 years. Most of that time has
 13 been spent on appellate work. He also served as clerk for the Honorable Elaine Houghton, ret. He is
 14 admitted to practice in the United States Supreme Court, the Washington State Supreme Court, the
 15 United States Court of Appeals for the Ninth Circuit, and the United States District Court for the
 16 Western District of Washington. Shelby R. Frost Lemmel, has practiced law for over 15 years,
 17 almost exclusively as an appellate attorney. She is admitted to practice in the United States Supreme
 18 Court, the Washington State Supreme Court, the United States Court of Appeals for the Ninth Circuit,
 19 and the United States District Court for the Western District of Washington. Tamra J. Cole is an
 20 attorney who has been admitted to practice law in Washington since 2009 and in California from
 21 2004-2013 (voluntarily resigned). She worked as an attorney from 2004-2010, and as a paralegal for
 22 the Seattle City Attorney's Office from 2010-2017, when she joined Masters Group.

23 11. Rates for Sound Justice Law Group. The lodestar calculation assigns a rate of
 24 \$685 for time worked by attorney Albert Kirby. He previously was approved at a rate of \$685
 25 in a TCPA and CEMA case brought in this Court. *Gragg v. Orange Cab Co.*, Case No. 2:12-
 26 cv-00576-RSL (W.D. Wash.).

12. In addition to the loadstar amount, HKM Employment Attorneys LLP and Stutheit Kalin LLC incurred out-of-pocket case expenses in the total amount of \$20,764.06. These expenses included filing fees, process servers, mediation fees, and other similar expenses reasonably incurred in the prosecution of this case. An itemized list of these costs is attached hereto as Exhibit A.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 13, 2019, in Chicago, Illinois.

/s/ Donald W. Heyrich, WSBA #23091

Donald W. Heyrich, WSBA #23091

HKM ATTORNEYS

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DECLARATION OF SERVICE

I certify that on this date I filed the foregoing document via the ECF system which will serve a copy on the counsel listed below:

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Dated: February 13, 2019.

/s/ Donald W. Heyrich
Donald W. Heyrich, WSBA #23091